

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition No.:** 02-063-10-1-5-00011  
**Petitioner:** Christopher S. Hughes  
**Respondent:** Allen County Assessor  
**Parcel No.:** 02-08-03-251-002.000-063/28-0003-0041  
**Assessment Year:** 2010

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. Christopher Hughes appealed his assessment to the Allen County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued its determination on January 7, 2011.
2. Mr. Hughes timely filed his Form 131 petition with the Board on February 18, 2011. He elected to have his appeal heard under the Board’s small claims procedures.
3. On September 28, 2011, the Board held a hearing through its administrative law judge, Jennifer Bippus (“ALJ”).
4. The following people were sworn in and testified:
  - a) Christopher Hughes
  - b) Renee Buettner, Allen County Deputy Assessor

Mr. F. John Rogers appeared as counsel for the Allen County Assessor.

**Facts**

5. The subject property contains a single-family home located at 10015 St. Joe Road in Fort Wayne, Indiana.
6. Neither the Board nor the ALJ inspected the subject property.
7. The PTABOA determined the following values for the subject property:

Land: \$29,200	Improvements: \$195,700	Total: \$224,900
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8. Mr. Hughes requested the following values:

Land: \$29,200	Improvements: \$185,500	Total: \$214,700
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## Parties' Contentions

9. Mr. Hughes offered the following evidence and arguments:
- a) Mr. Hughes contends that the subject property's assessment of \$224,900 is too high. In his view, the previous year's assessment of \$214,700 more accurately reflects the property's value.
  - b) Mr. Hughes testified that he bought the subject property for \$235,000 in the first quarter of 2008. He then offered indexes from the Federal Housing Finance Agency's ("FHFA") website showing that property values have declined over the last several quarters. The indexes are divided into calendar quarters with a corresponding positive or negative number by each quarter. Below is an example of the index for Fort Wayne covering the period between the date that Mr. Hughes bought the subject property and the March 1, 2010 assessment date under appeal:

<u>Year</u>	<u>Quarter</u>	<u>Fort Wayne IN</u>
2010	1	-5.35
2009	4	-1.58
2009	3	-1.69
2009	2	-0.22
2009	1	-0.07
2008	4	-0.16
2008	3	-0.12
2008	2	-1.01
2008	1	-0.91

*Pet'r Ex. 1.* According to Mr. Hughes, the Fort Wayne index shows that housing prices dropped almost 11% between the time he bought the subject property and the March 1, 2010 assessment date under appeal and that the prices dropped by 8.77% during "the time period given for the assessment."<sup>1</sup> *Hughes testimony; Pet'r Ex. 1.* It appears that Mr. Hughes arrived at those totals by adding the numbers for each quarter. Mr. Hughes, however, did not offer anything from the FHFA website to show that the index was intended to be read that way or to otherwise explain how to read the index. He likewise offered nothing to show what data the index was based on. *See id.*

- c) To further support his claim that "property values were dropping like a rock," Mr. Hughes offered FHFA indexes for Indiana, the East North Central United States, and the United States as a whole. According to Mr. Hughes, those indexes show that

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<sup>1</sup> It is not clear what Mr. Hughes meant by "the time period given for the assessment." The Board infers that he meant the period between January 1, 2009 and March 1, 2010. Those are the quarters that Mr. Hughes bracketed on the Fort Wayne index beside his notation of 8.77%. That period also coincides with what the Department of Local Government Finance has specified as the ideal outer limit for sales used in the annual adjustment process. *See* 50 IAC 27-5-2 ("The county assessor shall use sales of properties occurring during a time period that is as short as possible and, ideally not more than fourteen (14) months before the March 1 assessment and valuation date. . .").

property values for the United States as a whole dropped almost 50% from the first quarter of 2008 through the first quarter of 2010. *Hughes testimony; Pet'r Exs. 2-4.* Mr. Hughes also offered a chart titled "A History of Home Values," showing that housing prices have fallen drastically in recent years. *Hughes testimony; Pet'r Ex. 5.*

- d) In addition to offering the FHFA indexes, Mr. Hughes analyzed two sales that the Assessor relied on in her case. The first property, 4006 Goeglein Road, sold for \$83.05 per square foot. That translates to a value of \$156,881.45 for the subject property. The second property, 10017 Schwartz Road, sold for \$99.18 per square foot. That translates to a value of \$187,351 for the subject property. Even if one adds \$29,200 for the subject land, the subject property's total value would still be under \$200,000 using the first property's sale price and approximately \$216,000 using the second property's sale price. Thus, neither sale supports the subject property's assessment of \$224,900. *Hughes testimony; Pet'r Exs. 7- 8.*

10. The Assessor offered the following evidence and arguments:

- a) The subject property is located outside of a subdivision and is therefore assessed as rural residential property. It has a one-story 1,889-square-foot home built over a type 3 finished basement recreation room. It was built in 1984. Field inspectors viewed the subject property on October 5, 2010, and the house has been updated and maintained. *Buettner testimony; Resp't Exs. 2 - 7.*
- b) A property's sale price is the best indicator of its market value. Dating back to 2006, the subject property's assessments have been lower than the \$235,000 that Mr. Hughes paid for it in February 2008. *Buettner testimony; Resp't Ex. 3.*
- c) The Assessor pointed to rules promulgated by the Department of Local Government Finance ("DLGF") addressing the valuation date for 2010 assessments, time adjustments for sales, neighborhood delineations, and stratification. According to the Assessor's representative, Renee Buettner, the Assessor complied with those rules in determining the subject property assessment. The rules allow the Assessor to go back as far as five years to look for sales. The rules also explain how the subject neighborhood was designated as a rural residential neighborhood. *Buettner testimony; Resp't Exs. 18 - 20.*
- d) The Assessor, however, did not rely solely on the fact that she complied with the DLGF's rules; she also sought to bolster the subject property's assessment with comparable sales. In that vein, Ms. Buettner pointed to the following three sales from the Assessor's 2010 sales ratio study:
- 9508 Shackelford Road. This property sold for \$235,000 on December 9, 2009. It contains a one-story home over a basement with a type 1 recreation room. The subject property, by contrast, has a type 3 recreation room with more finish.

- 10017 Schwartz Road. This property sold for \$255,000 on November 18, 2009. It has a one-story home with a partial unfinished basement and partial slab. It is larger than the subject home, but the assessment reflects that fact.
- 4006 Goeglein Road. This property sold for \$245,000 on January 21, 2010. It has a one-story home over a basement with a type 3 recreation room. It is older than the subject home.

*Buettner testimony; Resp't Exs. 9 - 12.* According to Ms. Buettner, of the 27 rural residential sales included in the ratio study, those three sales were the most comparable to the subject property. *Buettner testimony.*

- e) Ms. Buettner also pointed to the ratio study for the 2009 assessment year, which included Mr. Hughes's purchase of the subject property. Once again, Ms. Buettner chose the sales that she felt involved the properties that were most comparable to the subject property. Thus, she pointed to the following four sales:
- 10504 Notestine Road. This property sold for \$279,900 on October 8, 2008. It has a one-story home over a finished basement with a type 1 recreation room. The property had previously sold for \$267,000 on October 30, 2006.
  - 8801 Wheelock Road. This property sold for \$252,000 in 2007. It has a two-story home over a basement, but the home is close to the subject home's size.
  - 10418 Flutter Road. This property sold for \$286,900 in 2007 and for \$330,000 on July 8, 2011. It has a one-story home over a basement with a type 3 recreation room.
  - 10127 St. Joe Road. This property sold for \$280,000 on December 12, 2007. It has a two-story home over a basement with a recreation room. It is less than a mile from the subject property.

*Buettner testimony; Resp't Exs. 13 - 17.*

- f) The fact that two of the four properties re-sold for higher prices shows that the market for rural residential property increased. *See Buettner testimony and argument.* Although Mr. Hughes offered indexes from the FHFA's website to support a contrary conclusion, those indexes refer to geographic areas that the DLGF's rules do not recognize as being relevant. *Rogers argument.*
- g) Finally, although Mr. Hughes used the per square foot price for two of Ms. Buettner's sales to argue that those sales do not support the subject property's assessment, the Assessor's office does not use price per square foot to assess properties. The assessed value per square foot and sale price per square foot are just for informational purpose; they show how a property's assessment compares to its sale price. *Buettner testimony; Resp't Ex. 4.*

## Record

11. The official record for this matter is made up of the following:

- a) The Form 131 petition,
- b) A digital recording of the hearing,
- c) Exhibits:

Petitioner Exhibit 1: Federal Housing Finance Authority (“FHFA”) index for Fort Wayne, Indiana

Petitioner Exhibit 2: FHFA index for Indiana

Petitioner Exhibit 3: FHFA index for the East North Central United States

Petitioner Exhibit 4: FHFA index for the United States

Petitioner Exhibit 5: Housing Price Chart – “A History of Home Values”

Petitioner Exhibit 6: Subject property record card (“PRC”) and photo

Petitioner Exhibit 7: Photo and PRC for 4006 Goeglein Road

Petitioner Exhibit 8: Photo and PRC for 10017 Schwartz Road

Petitioner Exhibit 9: Form 11 R/A Notice of Assessment for March 1, 2010

Respondent Exhibit 1: Notice of Hearing dated August 25, 2011

Respondent Exhibit 2: Respondent’s Position Statement

Respondent Exhibit 3: Subject PRC

Respondent Exhibit 4: Copy of photo of subject property and information regarding the property

Respondent Exhibit 5: Geographical Information System (“GIS”) view of subject property

Respondent Exhibit 6: Building permit for re-roof

Respondent Exhibit 7: Building permit for heating replacement

Respondent Exhibit 8: Page 4 of Form 130 petition

Respondent Exhibit 9: Ratio study – 2010 pay 2011

Respondent Exhibit 10: PRC for 9508 Shackelford Road

Respondent Exhibit 11: PRC for 10017 Schwartz Road

Respondent Exhibit 12: PRC for 4006 Goeglein Road

Respondent Exhibit 13: Ratio Study – 2009 pay 2010

Respondent Exhibit 14: PRC for 10504 Notestine Road

Respondent Exhibit 15: PRC for 8801 Wheelock Road

Respondent Exhibit 16: PRC for 10418 Flutter Road

Respondent Exhibit 17: PRC for 10127 Saint Joe Road

Respondent Exhibit 18: Portions of the Indiana Administrative Code with 50 IAC 27-5-2 starred

Respondent Exhibit 19: Portions of the Indiana Administrative Code with 50 IAC 27-5-6 starred

Respondent Exhibit 20: Portions of the Indiana Administrative Code 50 IAC 27-5-10 starred

Board Exhibit A: Form 131 petition

Board Exhibit B: Notice of Hearing dated August 25, 2011  
Board Exhibit C: Notice of Appearance for F. John Rogers  
Board Exhibit D: Hearing sign-in sheet

d) These Findings and Conclusions.

## **Analysis**

### Burden of Proof

12. Generally, a taxpayer seeking review of an assessing official's determination must make a prima facie case proving both that the current assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
13. In making its case, the taxpayer must explain how each piece of evidence relates to its requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board ... through every element of the analysis”).
14. If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to impeach or rebut the taxpayer’s evidence. *See American United Life Ins. Co v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.

### Discussion

15. Mr. Hughes failed to make a prima facie case for reducing the subject property’s assessment. The Board reaches this conclusion for the following reasons:
  - a) Indiana assesses real property based on its true tax value, which the 2002 Real Property Assessment Manual defines as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). Appraisers traditionally have used three methods to determine a property’s value: the cost, sales-comparison, and income approaches. *Id.* at 3, 13-15. Indiana assessing officials generally use a mass-appraisal version of the cost approach as set forth in the Real Property Assessment Guidelines for 2002 – Version A.
  - b) A property’s market value-in-use, as determined using the Guidelines, is presumed to be accurate. *See* MANUAL at 5; *Kooshtard Property VI, LLC v. White River Twp. Assessor*, 836 N.E.2d 501, 505 (Ind. Tax Ct. 2005) *reh’g den. sub nom. P/A Builders & Developers, LLC*, 842 N.E.2d 899 (Ind. Tax Ct. 2006). A taxpayer may rebut that presumption with evidence that is consistent with the Manual’s definition of true tax value. MANUAL at 5. A market value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice (“USPAP”) often will suffice. *Id.*; *Kooshtard Property VI*, 836 N.E.2d at 506 n. 6. A taxpayer may also offer

actual construction costs, sales information for the subject or comparable properties, and any other information compiled according to generally accepted appraisal principles. MANUAL at 5.

- c) Regardless of the method used to challenge an assessment's presumed accuracy, a party must explain how its evidence relates to the subject property's market value-in-use as of the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). Otherwise, the evidence lacks probative value. *See id.* For assessment dates after December 31, 2009, "an adjustment in the assessed value of real property under this section shall be based on the estimated true tax value of the property on the assessment date that is the basis for taxes payable on that real property." Ind. Code § 6-1.1-4-4.5(f). Thus, for example, the valuation date for a March 1, 2010 assessment is March 1, 2010. *See id.; see also* 50 IAC 27-5-2(c) (2010).<sup>2</sup>
- d) Mr. Hughes primarily focused on adjusting the \$235,000 that he paid for the subject property in February 2008 to a value as of March 1, 2010. To do so, he relied on indexes that he downloaded from the FHFA's website. According to Mr. Hughes those indexes show a decline of almost 11% in the Fort Wayne housing market between the first quarter of 2008 and the first quarter of 2010 and much larger declines in regional and national markets. Mr. Hughes arrived at his conclusions by simply adding the index numbers for each quarter to get a cumulative level of depreciation. But it is not clear that the indexes were designed to be read that way. In fact, Mr. Hughes offered no evidence about how the indexes are meant to be read or about the data on which the indexes are based. Also, most of the indexes that Mr. Hughes offered measure market depreciation in broad geographical areas. They say little about the real estate market at issue in this appeal. The index for Fort Wayne is more targeted, but it is still imprecise.
- e) Nonetheless, had Mr. Hughes used the Fort Wayne index to make a broader point, such as that the market has generally declined and that the subject property was worth no more than what he paid for it in 2008, the Board might give his evidence some weight. Indeed the Board might even be tempted to give Mr. Hughes's evidence some weight if the Fort Wayne index showed substantially greater depreciation than what the property's assessment recognized. But Mr. Hughes asks the Board to decide that his property depreciated by roughly 11% instead of by 4.3%, representing a total of less than \$15,000. Without more information about how to read the FHFA's indexes or about the data on which those indexes are based, Mr. Hughes's evidence does not allow the Board to draw a distinction that fine.
- f) Mr. Hughes also analyzed two of the Assessor's comparable sales, although he did so more to discredit the Assessor's case than to bolster his own. In any event, that sales data is not probative of the subject property's market value-in-use. In order to effectively use the sales-comparison approach as evidence in an assessment appeal, one must show that the properties being examined are actually comparable to the

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<sup>2</sup> That was not true for the assessment dates leading up to March 1, 2010. For those assessment dates, the valuation date was January 1 of the year preceding the assessment date. *See* 50 IAC 21-3-3(b) (2009).

property under appeal. Conclusory statements that a property is “similar” or “comparable” to another property do not prove that the properties are comparable. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Instead, one must identify the characteristics of the appealed property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, one must explain how any differences between the properties affect their relative market values-in-use. *Id.*

- g) Neither Mr. Hughes nor Ms. Buettner meaningfully compared the other two properties to the subject property. And they did not explain how any differences affected the properties’ relative values. The sales data therefore lacks probative value.
- h) Because Mr. Hughes did not offer any probative evidence to dispute the subject property’s assessment, he failed to make a prima facie case.

**Conclusion**

- 16. Mr. Hughes did not make a prima facie case for reducing the subject property’s assessment. The Board therefore finds for the Assessor.

**Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now affirms the assessment.

ISSUED: \_\_\_\_\_

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review



## IMPORTANT NOTICE

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>.